

Application Number 10/678,280  
Amendment dated November 20, 2007  
Response to Office Action mailed August 22, 2007

**REMARKS**

This amendment is responsive to the Office Action dated August 22, 2007. Applicant has amended claims 1, 16, 26-51, and added new claims 56-59. Claims 1-59 are pending.

**Claim Rejection Under 35 U.S.C. § 102**

In the Office Action, the Examiner rejected claims 1-55 under 35 U.S.C. 102(e) as being anticipated by Cho et al. (US 2004/0073646). Applicant respectfully traverses the rejection to the extent such rejection may be considered applicable to the amended claims. Cho fails to disclose each and every feature of the claimed invention, as required by 35 U.S.C. 102(e), and provides no teaching that would have suggested the desirability of modification to include such features.

For example, Cho fails to teach or suggest managing state information within a primary control unit included within a device, wherein the state information comprises information (i) representing a current state of operation of a consumer included within the device, (ii) updated by the primary controller during operation of the consumer within the device, and (iii) upon a transfer of control of the device from the primary control unit to a standby control unit included within the device, utilized by the standby control unit to take control of the device from the primary control unit without having to relearn the state information, as required by Applicant's amended claim 1. Moreover, Cho fails to teach or suggest, prior to communicating the changes to a consumer of the state information included within the device, communicating to the standby control unit changes performed by the primary control unit to the state information to synchronize the state information between the primary and standby control units, as further recited by Applicant's amended claim 1.

Instead, Cho, in paragraph [0010], generally describes an apparatus and method for providing real-time media, such as video and/or audio. In order to provide the real-time information, Cho teaches in paragraphs [0013], and [0031] that the apparatus receives and stores the real-time media, referred to as "status information data" in Cho. Notably, in the Abstract and paragraphs [0012], [0013], [0031], [0045], and [0054], Cho explicitly and unequivocally defines status information data as "either video data or data obtained by combining video data with at least one of audio data and text data." Further classifying this status information data, Cho refers

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to "news" and "vivid news" in paragraphs [0010] and [0081]. Cho ends the disclosure in paragraph [0081] by stressing that a benefit exhibited by the real-time apparatus is that "[u]nlike the related art method for providing newspapers and broadcasting information through a separate editing step after collecting data," the Cho apparatus can directly provide the status information data on a web site "so that the time needed to provide services after collecting the data can be reduced." The Cho apparatus, when accurately characterized, provides news to "arbitrary information users" more quickly than traditional methods for providing newspapers and broadcast information by forgoing a separate editing step.

Cho provides an example of this real-time apparatus within the context of the system shown in FIG. 10. The operation of the real-time apparatus within the context of the system shown in FIG. 10 is also described relative to the flowchart of FIG. 11. As the Examiner cited FIG. 10 and / or one or more of the paragraphs of the description accompanying FIGS. 10 and 11 (i.e., paragraphs [0064]-[0082]) in large part to reject Applicant's claims (i.e., cited against at least 18 out of 55 claims), Applicant provides below a correct characterization of FIGS. 10 and 11 and compares and contrasts the Examiner's mischaracterization to this correct characterization.

First, in rejecting Applicant's previously presented claim 1, the Examiner references FIG. 10, item 910 of Cho as teaching managing state information within a primary control unit (Office Action, page 5). In paragraph [0064] of Cho, the vaguely identified item 910 actually refers to a terminal unit 910 used by "a number of unspecified users, for generating video data, audio data, and text data on desired data in real-time." Cho makes no mention of item 910 when discussing the management of state information. In fact, Cho clearly teaches that item or web server 940 not terminal unit 910 "stores and manages the status information data." Therefore, the Examiner assumption that item 910 can be characterized as the primary control unit is incorrect.

Second, in rejecting Applicant's previously presented claim 1, the Examiner also references FIG. 10, web server, item 940 of Cho as teaching communicating changes to the state information to a standby control unit (Office Action, page 5). However, as described above, item 910 does not manage state information but generates so-called "status data information," which Cho unequivocally defines at the very least to require video data, as described above. To properly characterize the Cho reference, web server 940 stores and manages the video, audio, or

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text data generated by terminal unit 910, and thus, may more accurately represent the primary control unit not the secondary control unit, as suggested by the Examiner. The Cho reference neither teaches nor suggests a standby control unit and the Examiner improperly characterizes web server 940 as the standby control unit.

Third, because of the above described mischaracterizations of item 910 as the primary control unit and web server 940 as the standby control unit, the Examiner mistakenly assumes that the "status information data" is communicated to the standby control unit or web server 940 in the opinion of the Examiner prior to communicating it to a consumer or item 960, as required by Applicant's previously presented claim 1. However, when properly characterized in accordance with the teaching of Cho, web server 940, operating as the primary control unit, communicates the video, audio, or text data directly to consumers or item 960 via Internet 950, "if a number of unspecified information users 960 ... request arbitrary status information data." (paragraph [0065]) That is, because Cho does not teach or suggest a standby control unit, Cho cannot teach or suggest communicating "status information data" to a standby control unit prior to communicating the "status information data" to item 960, which is required by Applicant's previously presented claim 1.

Fourth, in rejecting Applicant's previously presented claim 1, the Examiner equates Applicant's state information to the Cho "status information" and references FIG. 10 and paragraph [0065] of Cho (Office Action, page 5). Applicant, for purposes of clarity, has amended independent claims 1, 16, 26, 42, and 51 to make clear that state information comprises information (i) representing a current state of a consumer included within the device, (ii) updated by the primary controller during operation of the consumer within the device, and (iii) upon a transfer of control of the device from the primary control unit to a standby control unit included within the device, utilized by the standby control unit to take control of the device from the primary control unit without having to relearn the state information. Thus, as described below in more detail, Applicant's currently amended claim 1, for example, requires state information of an entirely different nature than the status information data taught by Cho, which as described above comprises at the very least video data and possibly "news" or "vivid news" video data.

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To further clarify, Applicant has also amended independent claims 1, 16, 26, 42, and 51 to specify that the primary control unit, standby control unit, and consumer are included within the same device.

Given this context, Applicant's currently amended independent claims 1, 16, 26, 42, and 51 can be easily distinguished from the teachings or suggestions of Cho. As one example, Applicant's amended claim 1 requires that the state information comprise information representing a current state of a consumer included within the device. Cho teaches that the status information data is "news" or "vivid news" which is not representative of any consumer included within a single device but representative of events occurring outside of the device. As another example, Applicant's amended claim 1 requires that the state information comprise information updated by a primary control unit during operation of the consumer within the device. The Cho status information is never updated by web server 940 but only received, stored, and managed such that the status information can be expediently conveyed to consumers 960 in a manner faster than that of a newspaper or broadcast. That is, Applicant's claim 1 requires that the state information reflect the current state of the consumer as it evolves throughout the consumer's operation and be updated during this operation to accurately reflect changes to this state of operation. Cho merely describes a web server that receives what could be termed media content or news content from another device and servers this content in real-time to a consumer, which is distinctly different from state information.

As yet another example, Applicant's amended claim 1 requires that state information comprises information, upon a transfer of control of the device from the primary control unit to a standby control unit included within the device, utilized by the standby control unit to take control of the device from the primary control unit without having to relearn the state information. That is, Applicant's state information facilitates the transfer of control from a primary control unit to a standby control unit and avoids the standby control unit from having to relearn the state information. Again, Cho's status information data facilitates the streaming of video or "news" data to consumer 960 so that consumer 960 may more quickly absorb the news, and thereby remain "current." Thus, the multimedia data managed by Cho's real-time apparatus is substantially different from the state information required by Applicant's amended claim 1.

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Furthermore, the Examiner in rejecting Applicant's previously presented claim 1 references three devices: 1) item 910, 2) item 940, and 3) item 960 (Office Action, page 5). However, Applicant's currently amended independent claims 1, 16, 26, 42, and 51 each requires that the techniques be carried out within a single device. Applicant's independent claim 1, for example, requires that the primary control unit, the standby control unit, the consumer all be included within the single device. To even further clarify, Applicant amends claims 1, 26, and 51 such that each requires that the communication of state information between the primary and secondary control units occurs to synchronize the state information between the primary and secondary control units. Cho neither teaches nor suggest synchronizing state information between two separate control units included within the same device. Because Cho teaches three devices and Applicant's amended claims 1, 16, 26, 42, and 51 require a single device, and in part the synchronization of state information within the single device, the Cho reference fails to disclose each and every limitation set forth in these claims.

As the Examiner acknowledges on page 9 of the Office Action, independent claims 26 and 51 are similar to claim 1, and thus the above arguments made with respect to amended claim 1 are equally applicable to amended claims 26 and 51. Moreover, these arguments are also mostly applicable to amended independent claims 16 and 42, as claims 16 and 42 have been amended in a manner similar to that of claim 1. Specifically, claims 16 and 42 have been amended such that the consumer and control unit reside within the same device contrary to the teaching of Cho. Further, each has been amended to clarify state information, as described above and thus the above arguments made with respect to state information apply equally to these claims. Because dependent claims -15, 17-25, 27-41, 43-50, and 52-55 depend on respective amended independent claims 1, 16, 26, 42, and 51, these dependent claims also benefit from the above arguments.

With respect to Applicant's original dependent claim 3, for example, the Examiner references FIG. 3 as teaching managing state information within a temporally-ordered data structure. But as described above, item 910 which the Examiner suggested was the primary control unit, does not manage the state information. Paragraph [0064] of Cho clearly states that web server 940 is adapted for "providing real time information in accordance with the present invention." FIG. 3 of Cho, which describes the adaption for providing real time information in

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accordance with the present invention, therefore applies to web server 940 not terminal unit 910. As above, the Examiner's mischaracterization of items 910 and 940 leads to an improper application of Cho.

The Examiner further cites the Abstract, FIG. 2, FIG. 3, and paragraph [0030] of Cho as teaching replicating the temporally-ordered data structure within the standby control unit, as required by Applicant's original claim 3. Applicant notes that none of these references are helpful, as none refer to replicating the temporally ordered data structure. Moreover, even if Cho somehow suggests replication, Cho would suggest that replication occurs between separate devices, e.g., between the first two of the three devices mentioned above, and Applicant's claimed invention requires that it occurs within a single device. Furthermore, the state information, for the reasons described above, cannot be equated with the Cho "status information data."

Cho fails to disclose each and every limitation set forth in claims 1-55. For at least these reasons, the Examiner has failed to establish a *prima facie* case for anticipation of Applicant's claims 1-55 under 35 U.S.C. 102(e). Prompt withdrawal of this rejection is requested.

**Rejection for Obviousness-type Double Patenting:**

The Examiner provisionally rejected claims 1-13 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 10/357,483. As a preliminary matter, Applicant first notes that the Examiner applies the obviousness-type double patenting rejection with respect to Application No. 10/357,483 but includes comments describing this rejection relative only to Pending Application 10/457,814 (Office Action, page 3). Applicant assumes the Examiner referred to Application No in error. 10/357,483.

Applicant notes the provisional status of this rejection. Nevertheless, in order to expedite prosecution, Applicant addresses the merits of the rejection below as if formally applied.

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Claim 1 of pending application no. 10/457,814 discloses managing state information. From this the Examiner, in line with the above rejection of Applicant's previously presented claim 1, states that "an intermediary control unit is obvious in a network environment in which communication from one node to another node takes place." However, as described above, Applicant's amended claim 1 requires that the primary and standby control unit be included within a single device. Pending application no. 10/467,814 does not contemplate communicating state information between control units included within the same device. Applicant's amended claim 1 further requires that the state information comprise information, upon a transfer of control of the device from the primary control unit to a standby control unit included within the device, utilized by the standby control unit to take control of the device from the primary control unit without having to relearn the state information. Pending application no. 10/467,814 also does not contemplate the use of state information to facilitate the transfer of control by not requiring a standby control unit to relearn the state information. For these reasons, Applicant the obviousness-type double patenting rejection should be withdrawn.

**New Claims:**

Applicant has added claims 56-59 to the pending application. The applied references fail to disclose or suggest the inventions defined by Applicant's new claims, and provide no teaching that would have suggested the desirability of modification to arrive at the claimed inventions. No new matter has been added by the new claims.

**CONCLUSION**

All claims in this application are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

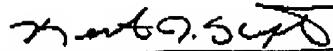
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